

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Alex MASHINSKY et al.

Serial No.: 10/098,689

Filed: March 15, 2002

For: System and Method for Generating, Monitoring
and Reporting Performance Information Relating
to Data Transmissions

Examiner: Winder, Patrice L.
Group Art: 2145

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Edward M. Weiss

Name of applicant, assignee or Registered Representative

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July 9, 2008

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Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
UNDER 37 CFR 1.705(b)

SIR:

Applicant respectfully requests reconsideration of the patent term adjustment from
180 days to 466 days in view of the following remarks.

The Notice of Allowance mailed April 17, 2008 included a Determination of Patent
Term Adjustment under 35 U.S.C. §154(b) stating that the patent term adjustment to date is 180
days. Applicant respectfully submits that the correct Patent Term Adjustment is 466 days.

The period of adjustment of patent term due to examination delay under 37 C.F.R.
§1.703(a) is 757 days. The period of adjustment of patent term due to Applicant delay under 37
CFR §1.703(b) should be 291 days and not 577 days as shown in the Patent Term Adjustment
calculation sheet.

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The present application was unintentionally abandoned and a Petition for Revival under 37 CFR 1.137(b) was filed on February 15, 2006 along with an Amendment in response to the June 10, 2005 Office Action. The Petition was granted on September 1, 2006, leading to a patent term adjustment based on Applicant delay of 160 days.

A Notice of Non-Compliant Amendment was issued on November 1, 2006 because, as stated by the Examiner therein,

"Applicant is advised that there are two amendments filed after the revival of the application. The application was revived on April 26, 2006 and the amendment dated February 17, 2006 [mailed on February 15, 2006] was entered. Subsequent to that entry there was a supplementary amendment that was submitted on March 29, 2006. The latest amendment submitted on March 29, 2006 does not reflect the claims as they were presented with the amendment submitted on February 17, 2006."

A response to the Notice of Non-Compliant Amendment was filed on November 27, 2006. As a result of the Notice of Non-Compliant Amendment, the Patent Office continued to reduce the period of patent term adjustment for the number of days from February 17, 2006 through November 27, 2006, i.e. an additional 286 days beyond the 160 days. This is shown on the Patent Term Adjustment History. However, there is no March 29, 2006 Amendment ever filed in this case and there is no record of such an amendment in the file history as viewed on Private Pair. Accordingly, the addition of 286 days as a reduction of the period of adjustment of patent term under 37 CFR §1.704(c)(7) is in error.

In view of the foregoing, it is believed that an additional 286 days should be added to the patent term adjustment, resulting in a patent term adjustment of 466 days.

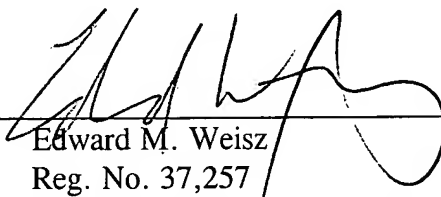
Enclosed herewith is a check for \$200 for the fee set forth in 37 CFR §1.18(e).

The present application is not subject to terminal disclaimer.

It is believed that no additional fees or charges are required at this time in connection with the present application. However, if any additional fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,
COHEN, PONTANI, LIEBERMAN & PAVANE

By



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Dated: July 9, 2008